

STATE OF NEW HAMPSHIRE

DEPARTMENT OF AGRICULTURE, MARKETS & FOOD

DEPARTMENT OF RESOURCES & ECONOMIC DEVELOPMENT

EMERALD ASH BORER QUARANTINE

May, 2013

- Section I. Definitions
- Section II. Statement of Concerns
- Section III. Statutory Authority
- Section IV. Specific Purpose and Factual Basis
- Section V. Emerald Ash Borer Quarantine
- Section VI. Violations

Section I: Definitions

1. “Ash” means any woody plant material in the genus *Fraxinus*. This includes but is not limited to *Fraxinus americana* (white ash), *Fraxinus pennsylvanica* (green ash), and *Fraxinus nigra* (black ash).
2. “Ash nursery stock” means all trees of any size in the genus *Fraxinus*, their roots, cuttings, grafts, and plant parts thereof including any collected plants, for and capable of propagation.
3. “Bark” means the tough outer tissue of woody stems and roots of trees, shrubs and vines outside the vascular cambium.
4. “Cambium” means a layer of delicate meristematic tissue between the inner bark or phloem and the wood or xylem, which produces new phloem on the outside and new xylem on the inside in stems, roots, etc., originating all secondary growth in plants and forming the annual rings of wood.
5. “Chips” means the end product of a milling process that reduces wood (logs, stems, branches) to a wafer or chip-like material.
6. “Compliance agreement” means an agreement between the New Hampshire Department of Agriculture, Markets and Food (NHDAMF), and the regulated industry for movement of regulated *Fraxinus* material within New Hampshire.
7. “Emerald ash borer” means *Agilus planipennis* (Fairemaire), a destructive beetle of regulatory significance initially introduced into the United States from Southeast Asia.
8. “Emerald ash borer host material” means any ash materials including but not limited to trees, parts of trees, wood products, and wood processing waste like bark and chips capable of harboring any life stage of emerald ash borer.
9. “Firewood” means all wood, split or unsplit, less than 4 feet in length that is not labeled as certified heat-treated by a USDA or State regulatory agency.
10. “Injurious insect or disease” means an insect or pathogen species whose introduction causes or is likely to cause economic or environmental harm or harm to human health.
11. “Nursery” means any location where nursery stock is grown, propagated, stored, or sold; or any location from which nursery stock is distributed direct to a customer. This includes landscape companies that temporarily store plant material for business related projects.
12. “Person” means any individual, governmental entity, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent, or employee thereof.

13. “Potentially infested ash material” means any ash trees, wood, or derivative products thereof which have the potential to be infested by emerald ash borer regardless of whether or not they display external signs of infestation.
14. “Quarantine” means a legal instrument duly imposed or enacted by a government agency as a means for mitigating pest risk.
15. “Quarantine areas” means the region(s) under regulation by the quarantine. Persons, nurseries, and the wood-products industries within the quarantine area are prohibited movement of regulated items except as allowed by this quarantine.
16. “Regulated articles” means any transported material identified by USDA APHIS as likely to move live emerald ash borer.
17. “Wood-products industry” means sawmills, facilities, or persons that process logs to be cut into lumber; ground into pulp; chip or sell bark mulch and/or wood chips with bark such as, but not limited to nurseries, garden centers, landscapers; arborists generating slash; power plants burning wood chips; or other industries as identified by APHIS, NHDAMF, or NHDRED.

Section II: Statement of Concerns

WHEREAS RSA 433:34 empowers the Department of Agriculture, Markets & Food to establish a quarantine to prevent dissemination of plant pests within the state upon detection of an injurious insect or disease which poses a threat to natural, residential or commercial resources; and

WHEREAS RSA 227-K empowers the Department of Resources and Economic Development Division of Forests and Lands to take measures to monitor the status of changes in the health of New Hampshire's forests and reduce the incidence and severity of forest insect and disease infestations; and

WHEREAS Emerald ash borer is a federally-regulated pest; and

WHEREAS Emerald ash borer has been detected in Concord in Merrimack County; and

WHEREAS this insect kills ash (*Fraxinus*) trees within 3-5 years of infestation; and

WHEREAS Emerald ash borer is spread rapidly into new areas with the trade of ash nursery stock and ash wood materials; and

WHEREAS Ash is an important part of New Hampshire's northern hardwood forests, with an estimated 25 million mature trees in the state; and

WHEREAS Ash is important to the forest economy of New Hampshire, with an estimated 500 million board feet in logs in the state; and

WHEREAS Ash nursery stock has been widely planted throughout the state of New Hampshire and is an important part of the state's urban forests; and

WHEREAS Treatment, removal, and replacement of dead and dying ash trees will be expensive costs for the state, municipalities, and landowners of New Hampshire; and

THEREFORE, The State of New Hampshire is hereby establishing this emerald ash borer quarantine against movement of all regulated articles outside of the quarantine area of Merrimack County.

Section III: Statutory Authority

The Statutory Authority for this quarantine order is RSA 433:34 and RSA 227-K:2 III.

Section IV: Specific Purpose and Factual Basis

The specific purpose of these regulations is to protect New Hampshire's natural and landscape ash forest resources by preventing the unregulated movement of emerald ash borer infested or potentially infested ash materials from Merrimack County throughout the remainder of the state.

The Department of Agriculture, Markets & Food (hereto referred to as NHDAMF) and the Department of Resources and Economic Development (hereto referred to as NHDRED) have determined that this quarantine is necessary based on the following:

The emerald ash borer is an introduced insect originating from Asia and a serious pest of North American ash trees. The immature stage of this beetle feeds within the cambium layer of ash trees, disrupting nutrient flow and killing the tree within 3-5 years of infestation if left untreated. As emerald ash borer spends most of its life cycle hidden under the bark of trees, detection is problematic prior to tree death. Regulation of emerald ash borer host material following detection can slow the spread of this injurious insect and enhance potential management programs.

Section V: Emerald Ash Borer Quarantine

1. No person shall move, carry, transport or ship (or authorize or allow any other person to do the same) Regulated Articles and Commodities from inside the quarantine area to outside of the quarantine area, unless specifically authorized in writing via compliance agreement issued by NHDAMF and moving with a PPQ 540 (certificate) or PPQ 530 (limited permit).
2. Quarantined areas – all public and private lands within Merrimack County, New Hampshire.
3. Quarantine period – this quarantine is in effect until modified or rescinded by the NHDAMF and NHDRED.
4. Regulated Articles and Commodities Covered:
 - A. All life stages of the emerald ash borer; and
 - B. Hardwood firewood (non-coniferous); and
 - C. *Fraxinus* (ash) nursery stock; and
 - D. *Fraxinus* (ash) green lumber; and
 - E. *Fraxinus* (ash) logs; and
 - F. Any other *Fraxinus* (ash) material, living, dead, cut, or fallen, including chips, bark mulch, stumps, branches, roots and debris; and
 - G. Woodchips consisting in any part of *Fraxinus* (ash) chips;
 - H. Any article, product, or means of conveyance not listed above if an authorized state inspector determines that it presents a risk of spreading emerald ash borer.

5. Conditions of Movement of Regulated Articles and Commodities

A. All regulated articles and commodities having originated or previously been held within a quarantined area within New Hampshire shall not be transported or moved into non-quarantined areas except as specifically allowed by a compliance agreement between the NHDAMF and the person wishing to move the regulated articles attesting that the regulated products or materials have been processed or handled in a manner to render them low-risk for transportation of emerald ash borer. Compliance agreements shall:

- 1) Be issued upon certification by an inspector authorized by NHDAMF; and
- 2) Be renewed annually; and
- 3) Require record-keeping; and
- 4) Be requested by contacting NHDAMF in writing, by telephone (603-271-2561) or by email (piera.siegert@agr.nh.gov); and
- 5) Shall meet the below conditions:
 - a) Nursery stock: there are no exceptions;
 - b) Regulated articles within the quarantine area shall be processed by:
 1. Removal of bark and additional ½ inch of wood; or
 2. Kiln sterilization treatment (for wood up to 3 inches in width) as per the T404-b-4 treatment schedule; or
 3. Fumigation treatment as per T404-b-1; or
 4. Heat treatment to 60° C for 60 minutes as per T314-a; or
 5. Chipping materials to a size of 1 inch or less in two dimensions; or composting of materials as per an APHIS-approved composting procedure; or
 6. Heat treat ash lumber in wood packing material to ISPM-15 standards by an ALSC WPM approved facility that meets IPPC Guidelines as per T404-e-2.
 - c) Regulated articles shall only move to a facility with a compliance agreement outside of the quarantine area for processing (as above in 1-6) during the non-flight period (October 1 – May 1). Regulated articles must be processed (as above in 1-6) within the quarantine area during the flight period (May 2 – September 30) before movement outside of the quarantine area.
 - d) The receiving facility shall have a compliance agreement attesting the following:
 1. Physical separation of all regulated materials from other ash wood materials until processed; and
 2. Waste disposed by shredding or chipping to a size of 1 inch or less in two dimensions and/or burned

on site; and

3. Processing or disposal of material during the EAB non-flight period of October 1 – May 1. Any unprocessed material remaining after the EAB non-flight period (October 1 – May 1) shall be considered a violation of this quarantine and will result in the penalty provisions of this quarantine; and
4. These receiving facility compliance agreements shall be available by contacting the NHDAMF as above in Section 5A.

B. All regulated articles and commodities originating outside of the quarantine area may move through the quarantine area without additional certification for this pest under the following conditions:

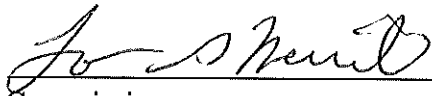
- 1) Regulated articles will be safeguarded so as to prevent the potential infestation from EAB while transiting through the regulated area; and
- 2) The point of origin of the regulated article must be indicated on the bill of lading or shipping documents.

C. Regulated articles originating outside of the quarantined area, which are then moved into the quarantined area shall be considered to have originated from a regulated area. These regulated articles may only be moved as conditioned in Section 5A above.

Section VI: Violations

1. Any person or employee or agent of that person, who violates any provision of this quarantine, shall be guilty of a violation. For any subsequent offense, a person shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. (RSA 433:32) (RSA 227-K:17)
2. Any regulated articles not in compliance with the quarantine are subject to destruction or risk mitigation at the cost of the nursery, wood-products industry, or person in violation of the quarantine.
3. Any person who violates any provision of this quarantine is subject to the penalty provisions of RSA 433:32 and RSA 227-K:17.
4. Nurseries or landscapers in violation of this quarantine are subject to suspension of their license (RSA 433:35). Reinstatement of a license shall be at the discretion of NHDAMF.
6. Nurseries or landscapers in violation of this quarantine shall provide DAMF with all Records of Sale for all ash, *Fraxinus*, sold.

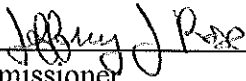
This quarantine against the emerald ash borer will become effective upon its adoption.



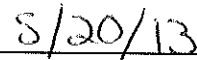
Commissioner
Department of Agriculture, Markets & Food



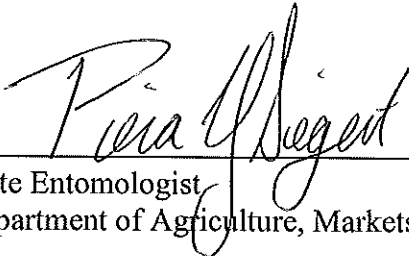
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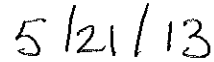
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Department of Resources and Economic Development



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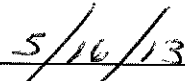
State Entomologist
Department of Agriculture, Markets & Food



Date



State Forester
Department of Resources and Economic Development



Date